

### **Remarks**

Acceptance/formal entry therefor of this Amendment along with the accompanying properly executed Terminal Disclaimer, which, applicants submit, renders the application allowable, is respectfully requested. Supportive discussion follows.

The continuing data information, in the opening paragraph on page 1 of the Specification has been updated, accordingly, in keeping with the Examiner's requirement.

By the present Amendment, all claims directed to the method of manufacture of a memory device, i.e., claims 12-21, were canceled but, however, without waiving applicants right to subsequently file similar such claims at a later time such as in connection with the filing of a further continuing application directed thereto.

It is noted that the only rejections made in the present application are on "non-statutory" double patenting grounds. Namely, claims 1-11 were rejected "under the judicially created doctrine of obviousness-type double patenting ... over claim 1 of USP 5,617,365." A similar such "obviousness-type double patenting " rejection was made of claims 12-21 "over claims 1 and 7 of USP 6,104,647." With the canceling of claims 12-21, however, the obviousness type-double patenting rejection directed thereto has been rendered moot. Applicants submit, agreeing to the canceling of the rejected claims was a decision made by applicants, at this time, to not include method claims in the present application.

In consideration of the sole rejection remaining, i.e., the rejection of claims 1-11 on "non-statutory" double patenting grounds, applicants have decided to submit a Terminal Disclaimer to thereby remove this rejection and render the application allowable.

The filing of the accompanying Terminal Disclaimer should not be construed

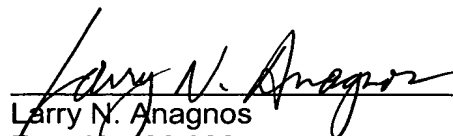
as an acquiescence of the merits of the above-noted rejection regarding claims 1-11. Rather, the Terminal Disclaimer is being submitted, at the present time, as a practicality insofar as removing the sole standing issue in consideration of rendering the application in condition for early allowance.

The filing of the Terminal Disclaimer as well as executing of the same by an Attorney of Record is in proper form consistent with the applicable requirements pursuant to 37 CFR §1.321(b)(c). Therefore, acceptance and formal entry of this submission together with the accompanying Terminal Disclaimer and an early formal Notification of Allowability of the above-identified application is respectfully requested.

Therefore, in view of the above-made Amendments and the filing of the accompanying properly executed Terminal Disclaimer, including the fee amount thereof, together with these remarks, favorable action on the remaining claims, i.e., claims 1-11, as well as an early formal notification of allowability of the above-identified application is respectfully requested.

To the extent necessary, applicants petition for an extension of time under 37 CFR §1.136. Please charge any shortage in the fees due in connection with the filing of this paper, to the Deposit Account of Antonelli, Terry, Stout & Kraus, LLP, Dep. Acct. No. 01-2135 (500.28006C10), and please credit any excess fees to such deposit account.

Respectfully submitted,  
**ANTONELLI, TERRY, STOUT & KRAUS, LLP**

  
\_\_\_\_\_  
Larry N. Anagnos  
Reg. No. 32,392

LNA/dks  
703-312-6600  
N:\500\28006C10\AMD\BC5409.DOC